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AUG 17 2006

OFFICE OF PETITIONS

|                                |   |             |
|--------------------------------|---|-------------|
| In re Application of           | : |             |
| Tomoyuki Asano, et al.         | : |             |
| Application No. 09/980,340     | : | ON PETITION |
| Filed: March 6, 2002           | : |             |
| Attorney Docket No. SONYJP-153 | : |             |

This is a decision on the petition, filed August 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the petition was not referred to the appropriate official for a decision until August 15, 2006, the date upon which the above-identified application issued as U.S. Patent No. 7,093,128.


The inconvenience caused petitioner in this matter is sincerely regretted. However, petitioner's attention is directed to 37 CFR 1.313(d) which states that "A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**." In this case, the petition was not received in the Office of Petitions for consideration until August 15, 2006.

While petitions to withdraw from issue may be mailed to the Commissioner of Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions to allow sufficient time to process the petition. (*See Revised Procedures for Papers Requiring Immediate Attention (Hand-Carried and Facsimile Transmissions)*, 1279 Off. Gaz. Pat. Office 149 (Feb. 24, 2004); *Revised Procedures for Papers Requiring Immediate Attention*, 1280 Off. Gaz. Pat. Office 917 (March 23, 2004).

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent on August 15, 2006. The RCE and

the information disclosure statement (IDS) will be placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(I). The \$790 RCE filing fee paid on August 8, 2006 is being credited to counsel's deposit account.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.



Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions